

No. 90-5721-CSY
Status: GRANTED
CAPITAL CASE

Title: Pervis Tyrone Payne, Petitioner
v.
Tennessee

Docketed: September 12, 1990 Court: Supreme Court of Tennessee,
Western Division

Counsel for petitioner: Lathram, J. Brooke

Counsel for respondent: Burson, Charles W.

Entry	Date	Note	Proceedings and Orders
1	Jun 28 1990	G	Application (A90-2) to extend the time to file a petition for a writ of certiorari from July 15, 1990 to September 13, 1990, submitted to Justice Scalia.
2	Jun 29 1990		Application (A90-2) granted by Justice Scalia extending the time to file until September 13, 1990.
3	Sep 12 1990	G	Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed.
5	Oct 15 1990		Brief of respondent Tennessee in opposition filed.
6	Oct 18 1990		DISTRIBUTED. November 2, 1990
7	Feb 1 1991		REDISTRIBUTED. February 15, 1991
9	Feb 15 1991		Petition GRANTED. In addition to the questions presented by the petition, the parties are requested to brief and argue whether <i>Booth v. Maryland</i> , 482 U. S. 496 (1987), and <i>South Carolina v. Gathers</i> , 490 U. S. 805 (1989), should be overruled. The petitioner's opening brief is to be served and filed with the Clerk on or before March 18, 1991. Respondent's brief is to be served and filed with the Clerk on or before April 8, 1991. The case is set for oral argument during the April Session. Justice Stevens, with whom Justice Marshall and Justice Blackmun join, dissenting: In my opinion, the Court's decision to expedite the consideration of this case and to ask the parties to address whether we should overrule <i>Booth v. Maryland</i> , 482 U. S. 496 (1987) and <i>South Carolina v. Gathers</i> , 490 U. S. 805 (1989), a question presented neither in the petition for certiorari nor in the response, is both unwise and unnecessary. Cf. <i>Patterson v. McLean Credit Union</i> , 485 U. S. 617, 622-623 (1988) (Stevens, J., dissenting). Moreover, the Court's decision to review the alleged <i>Booth</i> error in this case would be inappropriate in any event because the decision below rested alternatively on the ground that any <i>Booth</i> violation that might have occurred was harmless beyond a reasonable doubt. See <i>State v. Payne</i> , 791 S.W. 2d 10, 19 (Tenn. 1990). Accordingly, I respectfully dissent.
10	Feb 15 1991		*****
11	Feb 27 1991		REDISTRIBUTED. February 22, 1991
12	Mar 8 1991		SET FOR ARGUMENT WEDNESDAY, APRIL 24, 1991. (1ST CASE)
12	Mar 8 1991		Joint appendix filed.
15	Mar 14 1991	G	Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument filed.

Entry	Date	Note	Proceedings and Orders
13	Mar 15 1991		Brief of petitioner Payne filed.
14	Mar 18 1991		Brief amicus curiae of Southern Christian Leadership Conference filed.
16	Mar 22 1991		CIRCULATED.
17	Mar 25 1991		Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument GRANTED.
18	Mar 27 1991		Record filed. * one vol., -Supreme Court of TN
20	Apr 4 1991	X	Brief amici curiae of Alabama, et al. filed.
19	Apr 5 1991	X	Brief of respondent Tennessee filed.
28	Apr 5 1991	X	Brief amicus curiae of Criminal Justice Legal Foundation filed.
21	Apr 8 1991	X	Brief amici curiae of Hon. Thomas J. Bliley, Jr., et al. filed.
22	Apr 8 1991	X	Brief amici curiae of Washington Legal Foundation, et al. filed.
23	Apr 8 1991	X	Brief amici curiae of Justice for All Political Committee, et al. filed.
24	Apr 8 1991	X	Brief amicus curiae of United States filed.
25	Apr 8 1991	X	Brief amicus curiae of California District Attorneys Assn. filed.
26	Apr 8 1991	X	Brief amici curiae of National Organization for Victim Assistance, et al. filed.
27	Apr 15 1991	X	Reply brief of petitioner Payne filed.
29	Apr 24 1991		ARGUED.